

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

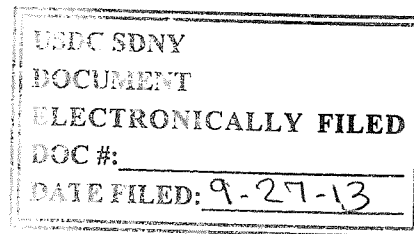
-----X  
**HERBERT M. MIDDLETON,**

**Plaintiff,**

**-against-**

**CORRECT CARE SOLUTIONS LLC et al.,**

**Defendants.**  
-----X



**1:13-cv-01291 (ALC) (MHD)**

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

**ANDREW L. CARTER, JR., United States District Judge:**

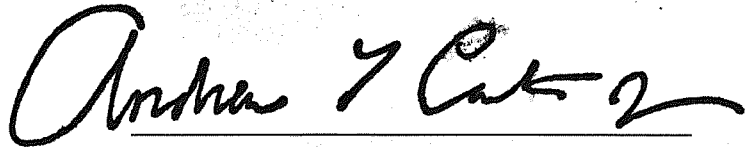
On February 25, 2013, Plaintiff Herbert M. Middleton ("Plaintiff") brought this pro se Section 1983 action against a prison medical unit for failure to treat his ailment. The Court referred Plaintiff's case to Magistrate Judge Dolinger on March 18, 2013. Plaintiff's 120-day period for service of process under Federal Rule of Civil Procedure 4(m) expired July 8, 2013. On multiple occasions the Court attempted to remind Plaintiff of the service deadline, but did not receive a response from Plaintiff. After Plaintiff failed to effectuate service on the named Defendants in a timely manner, Magistrate Judge Dolinger issued an Order to Show Cause why Plaintiff's complaint should be not be dismissed. Plaintiff never responded. As a result, Magistrate Judge Dolinger issued a Report and Recommendation ("R&R") on August 7, 2013, proposing that Plaintiff's complaint be dismissed without prejudice. See Ogbo v. N.Y. State Dep't of Taxation & Fin., No. 99 Civ. 9387 (HB), 2000 WL 1273840, at \*2 (S.D.N.Y. Sept. 6, 2000) (citing Zankel v. United States, 921 F.2d 432, 436 (2d Cir. 1990)) ("The Second Circuit has held that dismissal is mandatory when a party is not served within the 120-day time limit and there is no showing of good cause."). Plaintiff filed no objections to Judge Dolinger's R&R.

When no objection is made, the Court subjects the R&R to clear error review. See Arthur v. Goord, No. 06 Civ. 326 (DLC), 2008 WL 482866, at \*3 (S.D.N.Y. Feb. 21, 2008) (“To accept those portions of the report to which no timely objection has been made, ‘a district court need only satisfy itself that there is no clear error on the face of the record.’” (quoting Figueroa v. Riverbay Corp., No. 06 Civ. 5364 (PAC), 2006 WL 3804581, at \*1 (S.D.N.Y. Dec. 22, 2006))). The Court’s review finds no clear error, and accordingly, the Court ADOPTS Magistrate Judge Dolinger’s R&R in its entirety. For the reasons stated above, Plaintiff’s complaint is DISMISSED without prejudice.

**SO ORDERED.**

**Dated:** September 27, 2013

**New York, New York**

A handwritten signature in black ink, reading "Andrew L. Carter, Jr.", written over a horizontal line.

**ANDREW L. CARTER, JR.**  
**United States District Judge**